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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

GERALDINE ECKEL,

Plaintiff,

vs.

DOUGLAS COUNTY, et al.,

Defendants.

Case No. 6:14-cv-00083-MC

**JOINT MOTION TO APPROVE
SETTLEMENT**

The parties move the court for approval of the proposed settlement of this case because the settlement of the case includes the settlement of a claim of a minor, N.E.

Plaintiff, individually and as general guardian for N.E., filed this lawsuit against Douglas County ("County"), the Douglas County Sheriff's Office ("DCSO"), and John Does 1-3, who are unidentified employees of the County or DCSO. She alleges twelve claims for relief. The gist of

all of her claims is that Mikel and Kimberly Root, acting within the course and scope of their employment as deputy sheriffs in DCSO, and John Does 1-3, acting within the course and scope of their employment for the County or DCSO, tortuously interfered with Plaintiff's parental rights and custody of N.E. Defendants deny Plaintiff's allegations and have filed counterclaims for their attorney fees and costs.

The parties have agreed to settle the case by Plaintiff agreeing to dismiss her claims with prejudice in exchange for Defendants' agreement to dismiss their counterclaims with prejudice. A proposed Full Settlement and Final Release of Claims is attached as Exhibit 1 to the Declaration of Jens Schmidt in Support of Joint Motion to Approve Settlement, and a proposed Stipulated Judgment of Dismissal is attached as Exhibit 2.

The court must approve the proposed settlement because it includes the settlement of the claim of a minor. In *Robidoux v. Rosengren*, 638 F.3d 1177, 1181 (9th Cir. 2011), the court summarized the court's duty to approve a proposed settlement involving the claim of a minor:

District courts have a special duty, derived from Federal Rule of Civil Procedure 17(c), to safeguard the interests of litigants who are minors. Rule 17(c) provides, in relevant part, that a district court 'must appoint a guardian *ad litem* – or issue another appropriate order – to protect a minor or incompetent person who is unrepresented in an action.' Fed.R.Civ.P. 17(c). In the context of proposed settlements in suits involving minor plaintiffs, this special duty requires a district court to 'conduct its own inquiry to determine whether the settlement serves the best interests of the minor.' *Dacanay v. Mendoza*, 573 F.2d 1075, 1080 (9th Cir. 1978); *see also Salmeron v. United States*, 724 F.2d 1357, 1363 (9th Cir. 1983) (holding that 'a court must independently investigate and evaluate any compromise or settlement of a minor's claims to assure itself that the minor's interests are protected, even if the settlement has been recommended or negotiated by the minor's parent or guardian ad litem.').

From the Defendants' perspective, the proposed settlement is in the best interests of N.E. because Defendants believe that Plaintiff's claims are without merit. Defendants were not going to offer any money to settle this case, and they intended to pursue their counterclaims for

attorney fees and costs. The best settlement offer they intended to make was the one which the Plaintiff has accepted. Schmidt Declaration at ¶¶ 2-6.

From Plaintiff's perspective, the proposed settlement protects the interest of N.E. Counsel for plaintiffs has conducted additional witness interviews, analysis of the available evidence, and of defendant's claim for costs and attorney fees. Declaration of Zachary Hostetter at ¶ 2. In light of the available evidence, the risk presented by defendants' claim, and the uncertainty inherent in litigation, plaintiff's counsel has determined that the settlement proposed by the parties protects the interests of the minor child, N.E. *Id.* at ¶ 3.

Dated: July 1, 2014.

Dated: July 1, 2014.

HARRANG LONG GARY RUDNICK P.C.

By: s/ Jens Schmidt
 Jens Schmidt, OSB #843417
 Jeffery J. Matthews, OSB #973280
 Attorneys for Defendants

By: s/ D. Zachary Hostetter
 D. Zachary Hostetter, OSB #100541
 Attorney for Plaintiff

CERTIFICATE OF SERVICE

I certify that on July 1, 2014, I served or caused to be served a true and complete copy of the foregoing **JOINT MOTION TO APPROVE SETTLEMENT** on the party or parties listed below as follows:

- ☒ Via CM / ECF Filing
- ☐ Via First Class Mail, Postage Prepaid
- ☐ Via Email
- ☐ Via Personal Delivery

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